

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RAHEEM DAVIS,

Plaintiff,

-against-

P.O. STEVEN VENTIMIGLIA and  
#8 JOHN DOE OFFICERS,

Defendants.

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REPORT & RECOMMENDATION

07 Civ. 6043 (LAP) (MHD)

TO THE HONORABLE LORETTA PRESKA, U.S.D.J.:

Pro se plaintiff Raheem Davis has filed a motion, received by the court on April 24, 2008, for a default judgment against defendant Steven Ventimigia. In a declaration dated April 22, 2008, plaintiff asserts that the summons and complaint were served on the defendant on January 31, 2008 and that the time for defendant to answer has expired without any response by him.

Plaintiff's motion should be denied. By endorsed order dated February 22, 2008 we granted an application by defendant's counsel to extend the due date for a response to the complaint from February 22, 2008 to April 22, 2008. Defendant has complied with that directive, serving an answer to the complaint on April 22, 2008. Accordingly, no default may be entered against him.<sup>1</sup>

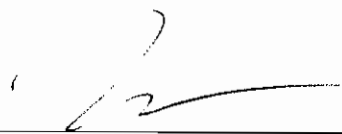
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<sup>1</sup> Plaintiff's motion is also unaccompanied by an affidavit of service. We ignore that deficiency since he seeks a default.



Pursuant to Rule 72 of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from this date to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court and served on all adversaries, with extra copies to be delivered to the chambers of the Honorable Denise L. Cote, Room 1040, and to the chambers of the undersigned, Room 1670, 500 Pearl Street, New York, New York 10007-1312. Failure to file timely objections may constitute a waiver of those objections both in the District Court and on later appeal to the United States Court of Appeals. See Thomas v. Arn, 474 U.S. 140, 150 (1985), reh'g denied, 474 U.S. 1111 (1986); DeLeon v. Strack, 234 F.3d 84, 86 (2d Cir. 2000) (citing Small v. Sec'y of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e).

Dated: New York, New York  
April 29, 2008

  
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MICHAEL H. DOLINGER  
UNITED STATES MAGISTRATE JUDGE

Copies of the foregoing Report and Recommendation have been mailed today to:

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